

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

MILLER MANUFACTURING  
COMPANY,

Plaintiff,

V.

FARM INNOVATORS, INC.,

Defendant.

Court File No.

## COMPLAINT

(Jury Trial Demanded)

## NATURE OF THE CASE

This is a case for design patent infringement under the United States Patent Act and for violations of the United States Lanham Act. Miller's claims arise from Farm Innovators, Inc.'s infringing, deceptive and unlawful conduct in the launch of a knockoff product as depicted in Exhibits A and C.

## THE PARTIES

1. Plaintiff Miller Manufacturing Company (“Miller”) is a Minnesota corporation having its principal place of business at 2910 Waters Road, Suite 150, Eagan, MN 55121. Miller is a manufacturer and international distributor of farm, ranch and pet products. Its products are sold through distributors that serve retailers of farm and ranch products in the USA, Canada and over 35 countries around the world.

2. Defendant Farm Innovators, Inc. is an Indiana corporation, having its principal place of business at 2255 Walter Glaub Drive, P.O. Box 546, Plymouth, Indiana 46563. Farm Innovators is a direct competitor in the farm, ranch and pet product industry.

### **JURISDICTION AND VENUE**

3. This Court has original jurisdiction over the Patent Act and Lanham Act claims pursuant to 15 U.S.C. §§ 1121(a), 28 U.S.C. §§ 1331 and 1338(a) and pendent and supplemental jurisdiction over the state law claims under 28 U.S.C. §§ 1338(b) and 1367 in that such claims are joined with substantial and related claims under the Trademark Laws of the United States, 15 U.S.C. §§ 1050 et seq.

4. Venue is proper in this district under 28 U.S.C. § 1391. Farm Innovators has marketed its product, and solicited clients throughout the United States, including the District of Minnesota. For example, Farm Innovators attended a Mid-States Distributing Company Farm Show on August 24 - 26, 2014 at the Minneapolis Convention Center, located at 1301 Second Avenue South, Minneapolis, MN 55403 for the purpose of advertising and selling its knockoff products.

### **FACTS**

5. For well over 70 years, Miller Manufacturing has been the leading designer, manufacturer, and marketer of supplies and equipment for farm use.

6. Miller is the owner by assignment of United States Design Patent No, D707,823, as issued on June 24, 2014 (the “823 Patent”).

7. Miller makes and sells an Incubator with Forced Air Fan Kit, through a network of distributors to distribute their products throughout the United States. A true and correct depiction of the Miller Incubator is shown in the attached Exhibit B.

8. The Farm Innovators’ confusingly similar, knockoff product came to light in August 2014, when Miller’s representatives heard about the Farm Innovator knockoff through industry contacts.

9. The discovery of the Farm Innovators' knockoff was confirmed when Miller's representatives attended the Mid-States Distributing Company Farm Show on August 24-26, 2014. The knockoff product appears in the attached Exhibits A and C, pictures taken at the Show.

10. By making, using, offering for sale and/or selling the knockoff product, Farm Innovators has infringed and continues to infringe the '823 Patent.

**CLAIM I**  
**INFRINGEMENT OF '823 PATENT – 35 U.S.C. §281 and 35 U.S.C. §271**

11. Miller repeats the allegations of paragraphs 1-10 of this Complaint.

12. Farm Innovators has infringed and continues to infringe the '823 Patent.

**CLAIM II**  
**FEDERAL TRADE DRESS INFRINGEMENT – 15 U.S.C. §1125**

13. Miller repeats the allegations of paragraphs 1–12 of this Complaint.

14. Farm Innovators owns rights to the trade dress associated with its Incubator.

15. Farm Innovators' use of Miller's trade dress has caused and is likely to continue to cause confusion among the relevant public as to source, sponsorship, origin or affiliation.

16. Farm Innovators' use of Miller's trade dress constitutes infringement of Miller's rights in violation of 15 U.S.C. 1125.

17. Unless enjoined by this Court, Farm Innovators' infringing conduct will continue to cause irreparable injury and other damage to Miller's business, reputation and goodwill. Miller has no adequate remedy at law.

18. Pursuant to 15 U.S.C. §1117, Plaintiff is entitled to recover its damages, including lost profits, Miller's profits, and the costs of this action. This intentional nature of farm Innovators' unlawful acts render this case "exceptional," entitling Miller to an award of attorneys' fees under 15 U.S.C. 1117(a).

**CLAIM III**  
**COMMON LAW UNFAIR COMPETITION**

19. Miller repeats the allegations of paragraphs 1-18 of this Complaint.

20. Farm Innovators' conduct constitutes unfair competition in violation of Miller's rights.

21. Farm Innovators' acts were taken in willful, deliberate and/or intentional disregard of Miller's rights.

22. As a direct and proximate result of this unfair competition, Miller has suffered and will continue to suffer irreparable harm if Farm Innovators is not enjoined.

**JURY DEMAND**

Plaintiff respectfully requests a jury trial for this matter.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that the Court enter an order:

A. Preliminarily and permanently enjoining and restraining Farm Innovators, its directors, members, officers, agents, servants, employees, subsidiaries, affiliates, and all persons in active concert or participation with, through, or under it, at first during the pendency of this action and thereafter perpetually from committing any acts of design patent infringement, trademark infringement, unfair competition, deceptive and unlawful trade practices;

B. Ordering seizure of the Farm Innovators' knockoff product as depicted in Exhibits A and C;

C. Making an award of all damages and items recoverable under any applicable provision of law, including but not limited to, 15 U.S.C. §1117, 35 U.S.C. §284, §285 and/or 35 U.S.C. §289 which shall include (1) Farm Innovators' profits based on the aforementioned

unlawful conduct and diverted sales; (2) Miller's damages; (3) the costs of this action; and (4) Miller's attorneys' fees.

D. Awarding Miller such other relief as the Court may deem just and proper.

Dated: September 2, 2014

By: s/ Kristine M. Boylan

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